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# DuaneMorris®

*FIRM and AFFILIATE OFFICES*

FRAN M. JACOBS  
DIRECT DIAL: +1 212 692 1060  
PERSONAL FAX: +1 212 202 6413  
E-MAIL: FMJacobs@duanemorris.com

[www.duanemorris.com](http://www.duanemorris.com)

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December 13, 2017

VIA ECF and BY HAND

Honorable Edgardo Ramos  
United States District Judge for the Southern District of New York  
c/o Court Security Officers  
500 Pearl Street – Worth Street Entrance  
New York, NY 10007

Re: Kraft Food Group Brands LLC v. Bega Cheese Limited (1:17-cv-8104)(ER)

Dear Judge Ramos:

This letter is written on behalf of respondent Bega Cheese Limited (“Bega”) to bring a recent development to Your Honor’s attention.

When we appeared for argument on December 12, 2017, there was some discussion of the proceeding petitioner Kraft Foods Group Brands LLC (“Kraft”) filed in federal court in Australia. I pointed out that Kraft had initially sought interlocutory relief with respect to some Bega advertising and, after Bega agreed to withdraw the advertisements, Kraft was continuing to pursue its claims for a permanent injunction and damages. Kraft’s counsel took the position that “there has not been any overlap of those issues between the two fora at this point.” (12-12-17 Transcript 11:20-21.)

Earlier today (December 14 in Australia), Bega notified Kraft that it intended to seek leave to file a cross-claim in the Australian proceeding. Like Kraft’s claim, Bega’s proposed cross-claim relates to advertising. It does not seek a judicial determination of the trade dress issues that are the subject of the dispute the parties are about to mediate. If the Court would like to see the proposed cross-claim, we will provide it.

We want to make clear that, by filing a cross-claim in the proceeding Kraft initiated in Australia, Bega is not attempting to avoid the dispute resolution provision in the Trademark Agreement. Bega’s position remains the same as it was on November 9 when it advised Kraft

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that, while reserving its rights, including the right to contest arbitrability, it is prepared to comply with the dispute resolution process in the Trademark Agreement.

Respectfully,



Fran M. Jacobs

cc: Paul Weiss Rifkind Wharton & Garrison LLP (via ECF)